IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Bail Appl..No. 4474 of 2007()

CRIME NO.269 OF 2007 OF THRITHALA POLICE STATION

: PETITIONERS/ACCUSED NOS.1 & 2:

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1. K.G. SUDHEER, S/O.K.GANGADHARAN NAIR,
   KUNNATH HOUSE, MEZHATHOOR POST, THRITHALA VIA.,
   PALAKKAD DISTRICT.

2. K. GANGADHARAN NAIR, AGED 68 YEARS,
   KUNNATH HOUSE, MEZHATHOOR POST, THRITHALA VIA.,
   PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING SUB INSPECTOR OF POLICE,
THRITHALA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4474 of 2007

Dated this the 25th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are the husband and father in law of the defacto complainant. The defacto complainant has alleged matrimonial cruelty punishable under Section 498 A I.P.C against the petitioners in a complaint filed before the Magistrate, which has been referred by the Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The marriage had taken place on 30.05.02. One child - a disabled child, it is submitted, was born in the wedlock. There is strain in the matrimony. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that because of the strain in the matrimony, baseless and exaggerated allegations are being raised. There is no allegation of any such cruelty resulting in bodily injury.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied in the facts and circumstances which are briefly indicated above, directions under Section 438 Cr.P.C can be issued in favour of the petitioners. In coming to this conclusion, the fact that there is no bodily injury suffered by the victim and the fact that arrest and

incarceration of the petitioner is likely to mar the matrimonial tie beyond repair do weigh with me. Appropriate conditions can of course be imposed.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 01.08.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 02.08.2007 and 03.08.2007 and thereafter between 10 a.m and 12 noon on all Saturdays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 01.08.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 01.08.07.

(R.BASANT, JUDGE)

rtr/-